

EXHIBIT 1

UNITED STATES DISTRICT COURT
FOR THE DISTRICT NEW JERSEY
50 WALNUT ST RM 4015
NEWARK NJ 07102-3595

John D. Horton
PO BOX 7
JOBSTOWN NJ 08041-0007
Plaintiff,

v.

Ross University School of Medicine
499 THORNALL ST FL 10
EDISON NJ 08837-2235

Jorge Rios
499 THORNALL ST FL 10
EDISON NJ 08837-2235

Michelle Fried
499 THORNALL ST FL 10
EDISON NJ 08837-2235
Defendants.

Civil Action No. 04-5658 (JAG)

EEOC Charge No. 170-2003-02552



COMPLAINT

A. PRELIMINARY STATEMENT

This case is brought pursuant to an EEOC "right to sue" letter, a copy of which is attached hereto, marked Exhibit A and incorporated herein by reference.

B. JURISDICTION

This action is brought pursuant to Title VII of the Civil Rights Act of 1964 as amended, for employment discrimination. Jurisdiction is specifically conferred on this Court by 42 U.S.C. § 2000e(5). Equitable and other relief are also sought under 42 U.S.C. §§ 1331, 1343 and 42 U.S.C §§ 1981 et seq. Jurisdiction of

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employment discrimination based on age is conferred by 29 U.S.C. §§ 626(c)(1) and 626(e) and appropriate relief is also sought. The plaintiff invokes the pendant jurisdiction of this court to try cases arising under New Jersey state law.

C. PARTIES

1. Name of the plaintiff: John D. Horton
Present mailing address: PO BOX 7
JOBSTOWN NJ 08041-0007
2. Name of the defendant: Ross University School of Medicine
Present mailing address: 499 THORNALL ST FL 10
EDISON NJ 08837-2235
3. Name of the defendant: Jorge Rios
Present mailing address: 499 THORNALL ST FL 10
EDISON NJ 08837-2235
4. Name of the defendant: Michelle Fried
Present mailing address: 499 THORNALL ST FL 10
EDISON NJ 08837-2235

D. NATURE OF THE CASE

The plaintiff, John D. Horton, is an Hispanic minority male over the age of 40 years of age.

1. In January of 2003 the plaintiff participated in a telephone interview with Dr. Jorge Rios, Dean of Academic Affairs for the defendant, for the position of Library Director at the defendant's campus located on the Caribbean island country of Dominica. The position paid \$70,000 per year.
2. At the conclusion of the telephone interview, Dr. Rios offered the plaintiff an in-person, all expenses paid trip to the Dominica campus to complete the interview process and the plaintiff accepted the offer and in consideration thereof

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are charged with fraudulent concealment for failing to properly, adequately and timely disclose their decision to breach the contract.

10. Fourth cause of action. Paragraphs 1 through 9 are incorporated herein by reference. Under the common law, statutes and Uniform Commercial Code of New Jersey the defendants (Ross University School of Medicine, Rios and Fried) are charged with fraudulent inducement by providing the plaintiff with an interview date which caused the plaintiff to decline his offer of an interview for a library director position at a Seattle area community college.

11. Fifth cause of action. Paragraphs 1 through 10 are incorporated herein by reference. Under the common law, statutes and Uniform Commercial Code of New Jersey the defendant (Fried) is charged with the tortuous interference with a contractual and business relationship for her telling Rios to breach the contract because she did not like the plaintiff because he was an Hispanic minority male over the age of 40 years and she wanted a white female hired for the position.

F. INJURY

12. The plaintiff was denied the opportunity to interview for the position with Ross at their Dominica campus. The plaintiff would have been hired for the position but for the wrongful actions of Fried. The plaintiff declined the opportunity to interview for a library director position with a Seattle WA area community college in detrimental reliance on the interview contract which the defendant breached and would have been hired for that position. The plaintiff was gravely humiliated in not being treated like other applicants for employment.

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The plaintiff's civil rights under Title VII and the Age Discrimination Act were violated by the defendants.

G. REQUEST FOR RELIEF

13. The plaintiff requests any and all just and equitable relief that this court can provide.

H. REQUEST FOR A JURY

14. The plaintiff requests a jury trial on all issues triable by a jury.

DECLARATION UNDER PENALTY OF PERJURY

15. The undersigned declares under penalty of perjury that he is the plaintiff in the above action, and that he has read the above complaint and that the information contained therein is true and correct.

DATED: November 9, 2002


John D. Horton

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EXHIBIT 2

UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF NEW JERSEY
CIVIL ACTION NO: 04-5658 (JAG)

JOHN HORTON, :
 :
 Plaintiff, : CIVIL ACTION
 : Deposition of:
 vs. : JOHN HORTON
 :
 ROSS UNIVERSITY SCHOOL OF :
 MEDICINE; JORGE RIOS; and :
 MICHELLE FRIED, :
 :
 Defendants. :
 - - - - -

T R A N S C R I P T of the stenographic
notes of the proceedings in the above-entitled
matter, as taken by and before TERESA CUELLAR, a
Certified Shorthand Reporter and Notary Public of
the State of New Jersey, held at the offices of
LINDABURY, McCORMICK & ESTABROOK, PA, 53 Cardinal
Drive, Westfield, New Jersey, on Friday, May 13,
2005, commencing at 11:05 p.m., pursuant to
notice.

SENTRY COURT REPORTING
&
LITIGATION SERVICES, LLC
45 Horse Hill Road
Cedar Knolls, New Jersey 07927
Phone: 1-973-359-8444 Fax: 1-973-359-1049

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1 APPEARANCES:

2
3 LINDABURY, McCORMICK & ESTABROOK, PA
4 53 CARDINAL DRIVE
5 WESTFIELD, NEW JERSEY 07091
6 (908) 233-6800
7 BY: JOHN SCHMIDT, ESQ.
8 ATTORNEYS FOR THE DEFENDANTS
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1 JOHN HORTON, is duly sworn by a Notary
2 Public of the State of New Jersey and testifies
3 under oath as follows:
4

5 DIRECT EXAMINATION BY MR. SCHMIDT:

6 Q. Mr. Horton, I introduced myself.
7 My name is John Schmidt. I am the attorney
8 representing the defendants in this litigation.
9 We have asked you here today for the purpose of
10 taking your deposition. What that is very simply,
11 it's going to be a series of questions I'm going
12 to ask you and that I would like you to respond to
13 the best of your ability.

14 If you do not understand a question that I
15 ask, please tell me, and I'll try to rephrase it
16 so you do understand it. If you answer a question
17 that I ask, we're going to assume that you did
18 understand it and that you answered it to the best
19 of your ability.

20 If at any time you need to take a break
21 during the course of this deposition, it's an
22 informal proceeding, you're in my office, just
23 tell me. As long as a question isn't pending for
24 which there's no answer we can take a break. You
25 can use the men's room, coffee, whatever you need.

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1 INDEX

2 WITNESS DIRECT CROSS REDIRECT RECROSS

3 JOHN HORTON

4 By: Mr. Schmidt: 4

5 EXHIBITS

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1 If at any time during the deposition you
2 feel that you need to read something, please take
3 your time. Don't rush. This isn't a fire drill.
4 I want to make sure that your answers are complete
5 and as accurate as best as possible.

6 Do you understand my instructions so far?
7 A. Yes, I do.

8 Q. Okay. Everything that's being said
9 here today is being transcribed by the court
10 reporter to my left and your right. It's
11 therefore necessary for you to give oral answers
12 to all your questions. She cannot take down a nod
13 of the head or gesture of the hand.

14 It's also important that we try not to
15 interrupt each other as humans have a tendency to
16 do in conversation because it makes it very
17 difficult for her to transcribe two people talking
18 at the same time. So even though you may
19 anticipate an answer to my question, please wait
20 until I finish the question so that she can take
21 it down completely and then I will also try not to
22 interrupt your answers.

23 Are you taking any medications that you
24 believe in any way would inhibit your ability to
25 listen, to understand and to answer the questions

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1 I'm asking?
 2 A. No.
 3 Q. Are you today suffering from any
 4 ailments, physical or mental, that you believe may
 5 inhibit your ability to listen, to understand and
 6 answer the questions I'm asking?
 7 A. No.
 8 Q. Okay. You are appearing today in
 9 this proceeding pro se, is that correct?
 10 A. That is correct.
 11 Q. So you have no attorney with you?
 12 A. No, I don't.
 13 Q. You understand that in litigation
 14 you are entitled to have an attorney representing
 15 you, is that correct?
 16 A. If I choose to and if I have the money to
 17 afford one, I think that would have been correct.
 18 Q. But you do understand that you are
 19 proceeding today on your own and that you're
 20 willing to go forward today without an attorney?
 21 A. That is correct.
 22 Q. Okay.
 23 MR. SCHMIDT: Can we have this
 24 marked please. Why don't we just mark them
 25 Exhibit 1 through. It doesn't have to be

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1 plaintiff or defendant.
 2 (Resume, is received and marked as
 3 Exhibit 1 for Identification.)
 4 Q. Mr. Horton, I'm going to show you a
 5 document which we marked Exhibit 1 for
 6 identification, and except for the top mail lines,
 7 as it appears to be an e-mail, do you recognize,
 8 can you identify the remainder of this document?
 9 A. Yes, I do recognize and I can identify the
 10 remainder of this document.
 11 Q. Can you tell me what it is please?
 12 A. It appears to be my resume.
 13 Q. Is this the resume that you
 14 forwarded to Ross University by e-mail attachment
 15 on January 13, 2003?
 16 A. It would appear to be, yes.
 17 Q. Any question as to whether it is or
 18 it is not?
 19 A. I don't have 100 percent recollection as to
 20 it, but this would appear in substance to be the
 21 resume that I sent.
 22 Q. I'd like to go over it if I could.
 23 Start with your education. From this resume am I
 24 correct that you attended Cameron University in
 25 Oklahoma?

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1 A. Yes, sir.
 2 Q. And you received a Bachelor's of
 3 Arts degree in 1982?
 4 A. That is correct.
 5 Q. Subsequent to receiving that
 6 degree, did you go directly to graduate school for
 7 your Master's of Science or did you go to law
 8 school?
 9 A. That is a good question, as that was twenty
 10 years ago. I believe I began my Master's degree
 11 in June of '82 right after I graduated in May of
 12 '82 from Cameron University, and then I started in
 13 on my Master's in June of '82.
 14 Q. At the University of Oklahoma?
 15 A. Yes.
 16 Q. Did you then go on to law school
 17 after completing your Master's degree in library
 18 science?
 19 A. No. Actually, the Master's degree was
 20 pending. I would say as it states there, I didn't
 21 receive it till '85. And then I began University
 22 of Oklahoma Law School I believe in '83, or --
 23 excuse me. Actually, I went to Oklahoma City
 24 University Law School in September of '83. Went
 25 for one semester. And I believe University of

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1 Oklahoma I must have started there in September of
 2 '85. So actually once I graduated from University
 3 of Oklahoma I got my Master's degree in '85 and
 4 then I begin University of Oklahoma Law School in
 5 September of '85. That's it. I tried to
 6 establish a time line. I'm -- I'm -- it's been a
 7 while. Twenty years, you know.
 8 Q. According to your resume, you
 9 completed 65 credit hours toward your law degree,
 10 is that correct?
 11 A. Yes.
 12 Q. Do you know how many credits you
 13 needed to graduate with a law degree?
 14 A. I believe it's usually 90, so --
 15 Q. Is there any reason that you
 16 stopped your education in law school?
 17 A. There were exigencies and circumstances,
 18 financial, primarily family, other things along
 19 those lines which made it impracticable for me to
 20 continue.
 21 Q. Going forward with the resume, it
 22 appears that the next job you had after getting
 23 your Master's in law school as working for the
 24 IRS, which was from April 1988 through November
 25 1989.

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1 A. Correct.
 2 Q. Was there a gap in time between
 3 your law school education and the time you first
 4 began working for the IRS?
 5 A. Well, I -- I believe law school ended in
 6 '87 maybe, and then I was maybe living at home for
 7 a year and then more exigencies. I'm off to
 8 Seattle to work for the IRS.
 9 Q. What did you do for that year that
 10 you were living at home?
 11 A. Just stayed with mother, you know, to get
 12 things moving.
 13 Q. When you worked for the IRS for, it
 14 appears, oh, sixteen, seventeen months?
 15 A. Correct.
 16 Q. What were the reasons for leaving
 17 the IRS?
 18 A. Let me check. Let's see what the next job
 19 says. Oh, again, I probably should explain that
 20 this resume is not necessarily comprehensive, but
 21 I -- let's just say I had a job working somewhere
 22 else which was not on this.
 23 Q. Where did you work?
 24 A. It was El Toro Marine Corps Air Station in
 25 California.

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1 Q. For how long did you work there?
 2 A. I believe I was there for six months.
 3 Q. From when to when?
 4 A. Let's see. Probably based on this, we'll
 5 say December of '89 to June of '90.
 6 Q. So you worked for them,
 7 approximately, six months?
 8 A. Correct.
 9 Q. What position did you have there?
 10 A. Assistant librarian.
 11 Q. What type of librarian?
 12 A. It was their recreation services library.
 13 Q. And why did you leave that position
 14 in June of '90?
 15 A. Other exigencies and circumstances.
 16 Q. And then it's fair to say you
 17 didn't get another position until February of
 18 1992?
 19 A. I was probably working in Seattle for
 20 different companies --
 21 Q. Okay.
 22 A. -- at that point. I believe I returned to
 23 Seattle from '90 to '92.
 24 Q. And the other instruction I failed
 25 to give you is that I don't want you to guess

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1 unless you tell us. So if you're not certain,
 2 just tell us you don't recall.
 3 A. Okay. If that's acceptable. Obviously,
 4 these things are from twenty years ago, so I'm
 5 kind of -- ten years ago. Maybe fifteen years
 6 ago.
 7 Q. So then between El Toro Marine
 8 Corps Air Station and obtaining employment with
 9 the Royal Saudi Naval Forces, is it fair to say
 10 you had odd jobs?
 11 A. Temporary jobs. Casual labor. Odd jobs,
 12 maybe that would be it.
 13 Q. Nothing that was --
 14 A. Worth putting on a resume.
 15 Q. Then you went to Saudi Arabia and
 16 you worked there for two years, is that correct?
 17 A. Right.
 18 Q. Was that pursuant to some
 19 government program or was that a job that you
 20 simply sought out and were hired directly by the
 21 Saudi Royal Air Forces?
 22 A. No. There was a recruiter. They put a
 23 paper in the Seattle or they put an advertisement
 24 in the Seattle Times newspaper and they had some
 25 kind of -- some library-type job and I responded

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1 and they hired me, so I was over there.
 2 Q. For two years?
 3 A. For two years.
 4 Q. And why did you leave that
 5 position?
 6 A. Well, it was a contract position and two
 7 years was pretty much enough for me.
 8 Q. You left there in February of 1994,
 9 and according to your resume it doesn't appear
 10 that your next job was until October 1997?
 11 A. That is correct.
 12 Q. What did you do during that two and
 13 a half-year period of time?
 14 A. Well, I just kind of lived in Seattle. I
 15 did bring back a little bit of money with me, and
 16 so it was not necessary for me to work at that
 17 point, so I didn't.
 18 Q. And you went to work again, it
 19 appears as a librarian, working for the Society of
 20 Saint Pius the X Roman Catholic Religious Order?
 21 A. Correct.
 22 Q. You worked there for,
 23 approximately, ten months?
 24 A. Correct.
 25 Q. And why did you leave that

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1 position?

2 A. Well, it was a temporary position. It was
3 sort of designed to see if I was interested in
4 studying for the priesthood, and I believe the
5 determination was made that I was not going to be
6 studying for the priesthood for their religious
7 order, and so it was time to move on.

8 Q. Let me see if I understand your
9 answer then. When you first took employment you
10 had an understanding that you were going there to
11 see if you might be interested in joining the
12 priesthood?

13 A. Right. Right. There was a religious
14 component to that as well as the library side to
15 that.

16 Q. You left there in 1998 and you took
17 a job with Huron University library in September
18 of '98, is that correct?

19 A. Yes.

20 Q. And you worked there it appears for
21 six months?

22 A. Correct.

23 Q. Why did you leave there in six
24 months?

25 A. The best of my recollection, their

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1 institution was financially strapped. It was
2 privately funded and they had a mass layoff in
3 March of '99, in which myself and a number of
4 other people were just essentially laid off. And
5 based on the history of Huron University, they had
6 laid off previous five -- I know from the library
7 side of the house, the previous, I'm going to say,
8 five librarians every year. They'd hired them for
9 the first semester. You get halfway through the
10 spring semester, they'd run out of money and then
11 they'd lay off the librarians. So it just seemed
12 to be a practice or pattern of Huron University to
13 lay off people in March.

14 Q. When did you learn of that practice
15 or pattern?

16 A. Probably in January. I had an opportunity
17 to speak to the former librarian there, and she
18 had actually lived in my town, in Hoven, South
19 Dakota, for a number of years. And originally
20 Huron University was a presbyterian school and
21 they had some state funding and then it went into
22 private hands I guess in the '70s. And ever since
23 then it's just been a hand-to-mouth existence from
24 student loan money being disbursed in September of
25 an academic year, and then they run out of the

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1 student loan money around March and then they do
2 their massive layoff of staff and budget cutting
3 until they can get more funding in the following
4 September. So I found out about that after the
5 fact, but that's just how they operated over
6 there, so --

7 Q. Then it appears you were out of
8 work for, approximately, five months.

9 A. Correct.

10 Q. And you took a job at Shaw Air
11 Force Base?

12 A. Yes.

13 Q. Where? In South Carolina?

14 A. Correct.

15 Q. Working it appears to be in the
16 medical resource center and library?

17 A. Correct.

18 Q. As the director?

19 A. I believe that's the title of the job.

20 Q. How many people were you directing?

21 A. Directing myself there.

22 Q. So it was a one-person position?

23 A. That is correct.

24 Q. And you stayed there for
25 approximately seven months?

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1 A. Seven months, correct.

2 Q. Why is it that you left there after
3 seven months?

4 A. Oh, I believe I resigned to look for other
5 opportunities.

6 Q. Were you asked to leave or was it a
7 voluntary --

8 A. I believe the final determination was that
9 I simply resigned.

10 Q. What do you mean final
11 determination?

12 A. Well, you know, the government is
13 bureaucratic, and they have the final
14 determination on what is called the standard Form
15 50, which is the personal action that denominates,
16 you know, your coming and going. They hire you
17 through ASF 50. They retire you or let you go
18 through ASF 50. And the final ASF 50 states that
19 it was a resignation action.

20 Q. Did they eliminate your position
21 completely or were you asked to resign?

22 A. I think I could just say that I resigned
23 for my own reasons, and that's how it's
24 documented.

25 Q. And what were the reasons?

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1 A. Looking for other opportunities outside of
2 South Carolina.

3 Q. Did you have something lined up
4 when you left?

5 A. Well, let's see. Let me check. I did not,
6 so no. It was just -- I don't know. It was so
7 hot down there and humid. It was terrible. So
8 it's unhealthy for me.

9 Q. Not too much different than what
10 the island of Dominica would be like?

11 A. That's true too but they paid a lot more.

12 Q. Then you went for a period of about
13 two years and three months without employment, is
14 that correct?

15 A. Yes. That would appear to be so.

16 Q. And you took a job with West Point?

17 A. Yes.

18 Q. Can we assume that as of this time
19 period through the time you worked at West Point
20 the only medical library you worked in was the
21 Shaw Air Force Base library?

22 A. That is correct.

23 Q. And you worked at West Point for
24 two months?

25 A. Two months, yes.

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1 Q. Why is it that you were only there
2 for two months?

3 A. I found the cost of living to be
4 prohibitive on a 20-hour-a-week position.

5 Q. So this was a part-time position?

6 A. As it so states hours per week 20.

7 Q. Did you relocate then back to the
8 West Coast after you left West Point?

9 A. Yes.

10 Q. For the two years between Shaw Air
11 Force Base and West Point, had you gone back to
12 the West Coast?

13 A. Let's see. Yes, I did.

14 Q. So then you relocated back to the
15 West Coast after West Point in August of 2002?

16 A. Let me see. Yes, approximately, August
17 2002.

18 Q. And you were unemployed until you
19 applied for the, well, several positions at that
20 point one being at Ross University, is that
21 correct?

22 A. Correct.

23 Q. Okay. So then as of the time you
24 applied for a position at Ross University you had
25 seven months experience working in a medical

Page 20

1 library?

2 A. Yes. That would appear to be correct.

3 MR. SCHMIDT: Mark this.

4 (On-line job posting, is received
5 and marked as Exhibit 2 for
6 Identification.)

7 Q. I'll show you what's been marked as
8 Exhibit 2, and I'll represent to you that this was
9 Ross University's on-line job posting. Now, this
10 one, it indicates that it was posted in April
11 2003.

12 A. Correct.

13 Q. Do you recall whether this was
14 similar to the first job posting you saw on line?

15 A. I would question whether I even saw this on
16 line. I believe I saw this in the print edition
17 of the Chronicle of Higher Education, so -- but in
18 substance, the salary and the description is the
19 same. But I saw it on -- not on this particular
20 web site. They had it published in the Chronicle
21 of Higher Education, which is a newspaper that has
22 an employment section in addition to other things,
23 so --

24 Q. Now, you applied for a position by
25 forwarding Ross University a copy of your resume,

Page 21

1 correct?

2 A. Yes.

3 Q. Do you think you met the
4 requirements for the job?

5 A. I met the basic requirements I think.

6 Q. Did you have five to eight years of
7 professional experience in an academic research or
8 medical school in a library setting?

9 A. No, I did not.

10 Q. Did you have three to five years of
11 experience supervising professional librarians or
12 library support staff?

13 A. No.

14 Q. What is it that caused you then to
15 think that you met the basic requirements for the
16 position?

17 A. Well, my consideration was the location in
18 Dominica. I didn't feel that there were going to
19 be that many applicants for the position.
20 Obviously, in the requirements section of the
21 vacancy announcement or the job description, they
22 put the Master's degree in library science as the
23 first requirement and everything else, although it
24 calls them requirements, well, I'm not sure if
25 they were ever going to find anyone quite of what

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1 they want.
 2 Q. Regardless of what you think --
 3 A. Yes.
 4 Q. -- did you have any discussions
 5 with anybody about you meeting the requirements
 6 for the job posting?
 7 A. Well, I eventually talked to Dr. Rios and
 8 he invited me in for an interview in Dominica. So
 9 evidently he felt that I was at least good enough
 10 to at least go for the interview.
 11 Q. At that point do you know how many
 12 candidates they had applying for the position?
 13 A. Well, no, I don't have any idea.
 14 Q. Do you know whether he reviewed
 15 your resume at the time that he invited you for
 16 the interview?
 17 A. I would assume he read some of it. I -- I
 18 wasn't looking over his shoulders. So, no, I
 19 couldn't say exactly what he was doing down there.
 20 But essentially he invited me for an interview.
 21 So I was under the impression at least he thought
 22 I met the basic requirements for the position,
 23 so --
 24 Q. Did you ever ask him that question?
 25 A. Well, we did the interview. We discussed

Page 23

1 my background. He seemed satisfied with my
 2 background. And then invited me into an
 3 in-person, let's-go-fly-away-to-the-Caribbean
 4 interview. And obviously they booked the flight
 5 and did everything. And then Ms. Fried somehow
 6 jumped into the work hire and she kind of put the
 7 kibosh on everything. So my concern is, Number
 8 one, what exactly is she doing trying to stop him
 9 from interviewing me. I mean, the best
 10 situation -- I'm not going to give legal advice to
 11 you or your client, but once they make the
 12 commitment to do the interview and book the
 13 flight, they should just go ahead and do the
 14 interview and then say they picked somebody else,
 15 but for them to just yank the interview seemed
 16 very suspect to me, and so basically that's why
 17 we're here. I mean --
 18 Q. Okay.
 19 A. In fact, they didn't even have --
 20 Q. Let me interrupt you a second, Mr.
 21 Horton, although I said I would not. You will
 22 have your chance to get on your soap box and to
 23 make any statements you want if this case gets to
 24 trial.
 25 A. Okay.

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1 Q. Today you're supposed to answer my
 2 questions. This is not a free-for-all.
 3 A. Okay.
 4 Q. What your suppositions may be or
 5 what you suspect is not the questions that I ask.
 6 I asked you very simply did Dr. Rios ever tell you
 7 you met the qualifications for the job.
 8 A. Yes.
 9 Q. I want to know to the best of your
 10 recollection what he told you about meeting the
 11 qualifications for the job.
 12 A. Well, just the fact they invited me in for
 13 an in-person interview clearly implies that I felt
 14 I met the basic qualifications.
 15 Q. So then it's fair to assume they
 16 never said anything about your qualifications, you
 17 are implying that from the fact they invited you
 18 for an interview?
 19 A. Well, we talked --
 20 Q. Yes or no, sir?
 21 A. Could you repeat the question.
 22 MR. SCHMIDT: Can you repeat the
 23 question, please.
 24 (Requested portion is read back by
 25 the reporter.)

Page 25

1 A. No. We discussed my qualifications. He
 2 was satisfied with my qualifications. He invited
 3 me for an in-person interview in Dominica.
 4 Q. Did he use that language, that he
 5 was satisfied with your qualifications?
 6 A. Yes.
 7 Q. Did he discuss with you the fact
 8 that you did not have more than two months prior
 9 experience working in a medical library?
 10 A. I believe I have six months.
 11 (E-mails, are received and marked
 12 as Defendant's Exhibit 3 for
 13 Identification.)
 14 Q. I stand corrected. Did he discuss
 15 with you that you only had seven months of
 16 experience working in a medical library?
 17 A. We discussed my resume. He was satisfied
 18 with everything on the resume, and he invited me
 19 in for an in-person interview.
 20 Q. How do you know he was satisfied
 21 with everything? Did he say that to you?
 22 A. Yes.
 23 Q. He said I am satisfied with your
 24 resume?
 25 A. Well, to the best of my recollection, this

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1 again is two, three years ago now, we discussed
2 the resume. Ordinarily you would not invite
3 someone to travel, you know, from Seattle to this
4 side of the country, it's 2,500 miles. And then
5 down to Dominica I think it's another 2000 miles.
6 You wouldn't book someone on an essentially 4 or
7 5,000-mile flight unless you were serious about
8 their candidacy and you were satisfied with their
9 credentials.

10 Q. That's your assumption, correct?

11 A. Well, he's the one who booked the flight.

12 Q. That's your assumption?

13 A. No. Rios and his group down in Dominica
14 booked the flight. That clearly states they were.

15 Q. It's no question they booked the
16 flight, but they never said to you using those
17 words that we're satisfied, that you're qualified
18 for the position, is that fair?

19 A. No, that's not fair, because I had the
20 interview with Dr. Rios over the phone. He had my
21 resume right in front of him. If he didn't like
22 the resume he would have not even had the
23 interview over the phone. So the fact that we
24 even had the interview over the phone is an
25 indication that there was enough there for them to

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1 be satisfied to go forward with the application,
2 interview process. So, I mean, the onus is on
3 your client that they made all the moves.

4 Q. Sir, you're not preaching to a
5 jury. Don't tell me what the onus is. That's not
6 the question that's pending.

7 A. Okay.

8 Q. Now, if we go back to Exhibit
9 Number 1 for a second, can you tell me why you
10 placed on your resume the fact that you are a
11 hispanic minority male over the age of 40 years?

12 A. Some companies want to know that sort of
13 thing for EEO and diversity and affirmative action
14 purposes.

15 Q. What is your hispanic background
16 because, I hate to say and I don't mean to be
17 rude, but you don't appear to be hispanic as we
18 sit here?

19 A. Well, my mother is half, which makes me a
20 quarter. So if you want to go dig her up, her
21 side of the family.

22 Q. Your mother is half what?

23 A. Hispanic.

24 Q. Spain hispanic?

25 A. Mexico hispanic.

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1 Q. Your mother's one half Mexican
2 descent?

3 A. Right.

4 Q. Okay. Your father was not Mexican?

5 A. No.

6 Q. So you're one quarter Mexican?

7 A. Yes.

8 Q. And you believe that qualifies you
9 as hispanic minority?

10 A. Yes.

11 Q. I'm going to show you what's been
12 marked as Exhibit 3 and ask you if you can
13 identify that series of e-mails?

14 A. From. To. It appears to be e-mails
15 between or from Dr. Rios to myself carbon copied
16 to Ms. Fried. Let's see. All right. Yes, I
17 recall these.

18 Q. Let's start with the first one on
19 top that is dated Tuesday, January 21, 2003 at
20 4:40 p.m. from Dr. Rios to you. The third
21 sentence of that e-mail says, "I see that you have
22 lived and worked in Dominica, so you're familiar
23 with the island and perhaps the school." Did you
24 ever live in Dominica?

25 A. No, I have not.

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1 Q. From where did he get that
2 information? Do you know?

3 A. I would assume he confused me with somebody
4 else.

5 Q. Did you ever tell him you were in
6 the Peace Corps?

7 A. No.

8 Q. So you never made these
9 representations to him?

10 A. No.

11 Q. He may have confused you with
12 somebody else then, correct?

13 A. Possibly or -- I don't know hold he is. I
14 think he's in his 60s or 70s maybe, and that may
15 have contributed to the situation.

16 Q. Why, are you suggesting he's
17 suffering from dementia of some type?

18 A. No, but at that age you've met so many
19 people. It's hard to keep track of everybody.

20 Q. Okay.

21 MR. SCHMIDT: We'll have this
22 marked please.

23 (E-mails, are received and marked
24 as Defendant's Exhibit 4 for
25 Identification.)

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1 Q. Let me show you what's been marked
2 as Exhibit 4 and ask you if you can identify those
3 as a series of e-mails?

4 A. I recall these, yes.

5 Q. And they're e-mails between
6 yourself, Michelle Fried and Dr. Rios?

7 A. Correct.

8 Q. Okay. If we go to Page 2, which is
9 really the first to go backwards on these, it
10 appears that there was some initial discussions
11 about setting up a telephone interview, is that
12 correct?

13 A. Correct.

14 Q. And that was apparently done. And
15 then on the 21st of January 2004 you write to Dr.
16 Rios, "Any word on my flight to Dominica. I
17 haven't heard from your travel agent." Had he
18 made an offer to you for a job interview in
19 Dominica over the telephone --

20 A. Yes.

21 Q. -- sometime between the 15th and
22 the 21st of January?

23 A. Well, when we had our phone interview he
24 said, "Okay. I want you to come and do an
25 in-person interview." So we did the phone

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1 interview and then he -- right there he said,
2 "Okay. I want you to come and do the in-person
3 interview." So that's where we were at. So he
4 made, I guess, what you call it, the offer, at
5 that point, and I accepted the offer. And all the
6 booking arrangements were made with the travel
7 agent and everything looked really good there for
8 a while.

9 Q. You thought you were going to get a
10 trip to Dominica?

11 A. Well, I was all ready to go. The bags were
12 packed. I put the cat out. Everything was
13 looking good.

14 MR. SCHMIDT: This is Number 5
15 please.

16 (E-mails, are received and marked
17 as Defendant's Exhibit 5 for
18 Identification.)

19 Q. Now, is Exhibit 5 again a series of
20 e-mails concerning your reservations?

21 A. Correct.

22 Q. The bottom e-mail appears to be --
23 the first e-mail appears to be from Michelle Fried
24 to you talking about the arrangements and that you
25 have to go to the travel agency, correct?

Page 32

1 A. Let's see. I don't recall having to go to
2 the travel agency. I mean, obviously, I'm in
3 Seattle. The travel agent is in Dominica.

4 Q. Contacted?

5 A. Contact. Okay. I believe they just wanted
6 me to confirm and I was, look, well, they're
7 making all the arrangements, so there's really
8 nothing for me to confirm what they want to set
9 up. I'm just totally available.

10 Q. You had an e-mail to Michelle Fried
11 with a number of questions concerning the
12 amenities for the trip. Cost. How many nights.
13 Whether the meals would be included. So forth and
14 so on.

15 A. Right. I was basically trying to plan out
16 that week, exactly how long they were going to
17 have me down there and, you know, probably
18 expenses were going to be shared. How much money
19 I had to bring with me or available.

20 Q. Now, the trip was cancelled,
21 correct?

22 A. Yes.

23 Q. One of the things you've alleged in
24 this lawsuit is that you relied on that statement
25 to cancel an interview, is that correct?

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1 A. Yes.

2 Q. And the interview was with another
3 school somewhere in -- I'm not sure where it was
4 located. Where was the school located?

5 A. The Seattle area. The specific town is
6 Renton. Renton, Washington.

7 Q. When is it that you had the
8 interview scheduled for Renton, Washington?

9 A. As I recall, it would have been coextensive
10 or at least the week of the trip to Dominica.

11 Q. In January?

12 A. Correct.

13 Q. Okay.

14 MR. SCHMIDT: If we can have this
15 marked please.

16 (Interrogatories, are received and
17 marked as Defendant's Exhibit 6 for
18 Identification.)

19 Q. I'm going to show you a document
20 which was marked Exhibit 6. I'm going to
21 represent to you these were your responses to our
22 written interrogatories or written questions that
23 we posed to you.

24 Do you recognize this document?

25 A. Yes, I do.

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1 Q. Okay. There is attached Exhibit
2 A1, and this is presumably an e-mail
3 correspondence you had with the admissions office
4 at the school for which you applied for a
5 position.

6 A. This would have been the human resources
7 office I believe.

8 Q. Human resources. I apologize. And
9 what university was this?

10 A. Rent ten Technical College.

11 Q. Is there any reference to that on
12 this document at all?

13 A. Well, under the job description they
14 obviously list, you know, application deadline to
15 rent ten Technical College. That would be A3.
16 The application deadline and where to mail --

17 Q. But there's no e-mail that talks
18 about rent ten College, does it?

19 A. Well, the address -- the e-mail address is
20 RTC. -- RTC.EDU.

21 Q. And according to this, this is an
22 e-mail exchange that you had in January of this
23 year with this woman in human resources
24 department?

25 A. Correct.

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1 Q. And you e-mailed her asking to
2 confirm the fact that you had sent a resume in and
3 had been offered an interview, correct?

4 A. Yes.

5 Q. The first e-mail in the bottom of
6 the page which is from Glenda Mullooney, it's
7 M-u-l-l-o-w-n-e-y, if that's how it's pronounced,
8 indicates that you applied for this position in
9 December of 2002, correct?

10 A. Yes.

11 Q. And it says you then withdrew your
12 application, correct?

13 A. Yes.

14 Q. You then indicated or asked her if
15 the school would confirm that you were offered an
16 interview?

17 A. Correct.

18 Q. And she responds it looks like you
19 were selected for an interview and you declined?

20 A. Correct.

21 Q. It doesn't say when, though, does
22 it?

23 A. Well, that would be the only reason. I
24 mean, I specifically recall that my interview with
25 Renton Technical College was going to be on the

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1 same week that the trip had been booked and so --

2 Q. Is there any reason that you didn't
3 try and reschedule?

4 A. Well, at the time the Dominica position
5 looked so promising that I was trying to put all
6 my eggs in that basket.

7 Q. Nobody told you that you would be
8 offered a job when you went down there, did they?

9 A. Well, I never got down there, but the
10 telephone call with Dr. Rios was just very, very
11 positive.

12 Q. He didn't offer you a position, did
13 he? Did he?

14 A. Well, it seemed like we were almost there.

15 Q. Did he offer you a position?

16 A. He did not offer me a position no, but --

17 Q. Now, with this Renton University --

18 A. Technical College.

19 Q. -- Technical College did you try to
20 get another interview with them?

21 A. No, I did not.

22 Q. Why not?

23 A. I felt that the Dominica position was in
24 the bag.

25 Q. Well, what about after you came

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1 back from -- when you learned that your trip to
2 Dominica had been cancelled?

3 A. I had no reason to believe that the
4 Dominica position was going to be put on hold
5 indefinitely.

6 Q. You were interviewing for other
7 positions during that period of time, weren't you?

8 A. I believe so, yes.

9 Q. In fact, you interviewed for a
10 position with the Veterans Health Administration
11 in Philadelphia at about that time, didn't you?

12 A. Probably back in December or November.

13 Q. Okay. Now, we are into the end of
14 January of 2003, correct?

15 A. Yes.

16 Q. Had you accepted the position with
17 the Veterans Administration before you decided to
18 apply to Dominica University or Ross University
19 rather, in Dominica for a position?

20 A. I don't recall.

21 MR. SCHMIDT: Can we have this
22 marked please.

23 (Resume, is received and marked as
24 Defendant's Exhibit 7 for Identification.)

25 Q. Do you recognize that document?

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1 A. Yes, I do.
 2 Q. This is a second resume that you
 3 sent to the school, correct?
 4 A. Yes, it appears to be.
 5 Q. Dated February 18, 2003, correct?
 6 A. Correct.
 7 Q. And it indicates that you were
 8 already working at the Veterans Health
 9 Administration Medical Center in Philadelphia?
 10 A. That is correct.
 11 Q. So I will ask you again, do you
 12 recall whether you accepted a job with the
 13 Veterans Health Administration prior to January
 14 22, 2003 when you decided to take a trip to
 15 Dominica?
 16 A. I do not recall specifically when I
 17 accepted the job at the Veterans Health
 18 Administration, but it would be fair to say that
 19 it would have been in January or February of that
 20 year?
 21 Q. Had you decided to take the job
 22 interview in Dominica because you wanted to take a
 23 short vacation before you started working in
 24 Philadelphia?
 25 A. No, because, again, per the position

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1 description for the Dominica position, I believe
 2 it was 70,000 a year, and this thing was just
 3 35,000 a year. So I would have been more than
 4 happy to stay in Dominica.
 5 Q. When you first talked to Dr. Rios
 6 did you tell him that you had accepted a position
 7 beginning in February at the Veterans Health
 8 Administration Medical Center?
 9 A. As I recall, I was not 100 percent sure
 10 whether I was going to be working there obviously
 11 if at any point I could have cancelled the offer
 12 from the Veterans Administration. And it was
 13 certainly my intention to be working in Dominica
 14 and not be working in Philadelphia, but as
 15 circumstances turned out Dominica kind of fell
 16 through on me.
 17 Q. Let's get back to this Renton
 18 University again just for a second. Do you have
 19 any documents at all, any records at all, that
 20 indicate when your interview had been scheduled
 21 with Renton?
 22 A. The only documents -- well, the only thing
 23 I can bring up is that the only reason I would
 24 have cancelled it is that it would have conflicted
 25 with the Dominica situation.

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1 Q. Now, answer my question please.
 2 A. Okay. Repeat your question for me.
 3 MR. SCHMIDT: Just read it back.
 4 (Requested portion is read back by
 5 the reporter.)
 6 A. Again, I will just state that the documents
 7 from the human resources at the college are all
 8 that I have available at this time, but I believe
 9 to the best of my recollection the proposed trip
 10 to Dominica and the interview with Renton
 11 Technical College were definitely all on the same
 12 week.
 13 Q. But you have no documents to
 14 substantiate --
 15 A. I don't think I have it with me. I'm sure
 16 I can dig something up from Renton and they can
 17 verify that.
 18 (Resume, is received and marked as
 19 Defendant's Exhibit 8 for Identification.)
 20 Q. Take a look at Exhibit 8 please.
 21 This appears to be another copy of your resume
 22 that was forwarded to Ross University.
 23 A. Correct.
 24 Q. And this appears to be one that was
 25 sent in August of 2003, correct?

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1 A. Correct.
 2 Q. Again, inquiring as to a position
 3 as the medical librarian?
 4 A. Correct.
 5 Q. Now, this indicates that you worked
 6 at the Veterans Health Administration Medical
 7 Center library for four months?
 8 A. Yes.
 9 Q. And why is it that you were only
 10 there for four months?
 11 A. I believe they had some problems with my
 12 paperwork.
 13 Q. And what problem did they have with
 14 your paperwork?
 15 A. They were not specific with me about that.
 16 Q. The problem with your work product
 17 or with your background check?
 18 A. I don't know. I think they offered me a
 19 position which they didn't have the authority to
 20 offer me based on federal reinstatement
 21 illegibility and other exoteric things. So they
 22 sort of tried back.
 23 Q. What do you mean federal
 24 reinstatement illegibility?
 25 A. Well, apparently there were other federal

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1 employees who were hired on the register and that
 2 they had inadvertently offered the position to me
 3 when they should have given it to someone else.
 4 And evidently whoever that other person was made
 5 that fact known at which point I believe it was
 6 incumbent upon them at that point to draw that
 7 position from me and offer it to the other
 8 candidate.

9 Q. And did somebody tell you this?

10 A. That's how it was brought to me, yes.

11 Q. Who was it that brought that to
 12 your attention, the name of the person?

13 A. The name of the person I guess it would
 14 be -- we'll say Joseph Lytle.

15 Q. At human resources at the Veterans
 16 Administration?

17 A. Yes, Veterans Health Administration.

18 Q. Now, in the course from 1988
 19 forward through August of 2003 it appears that you
 20 had six or seven positions, the longest one being
 21 for two years in Saudi Arabia. The remaining ones
 22 somewhere between four and ten months, is that
 23 correct?

24 A. Yes.

25 Q. And I think your testimony was that

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1 with each of them there was an employer's reason
 2 why they had to let you go?

3 A. I wouldn't put it that way.

4 Q. Did any of them terminate your
 5 employment because of poor performance?

6 A. No.

7 Q. Because of an inability of you to
 8 interact properly with other personnel?

9 A. I don't recall that.

10 Q. Okay. You obviously relocated to
 11 the Philadelphia area when you took this position
 12 at the Veterans Health Administration, is that
 13 correct?

14 A. Yes.

15 Q. And then you relocated there from
 16 the Philadelphia position to New Jersey?

17 A. I basically have always been in New Jersey
 18 since coming out here, in I believe all or, excuse
 19 me, February of 2003.

20 Q. You remained in New Jersey since
 21 that time?

22 A. Right.

23 Q. Then as I understand in August of
 24 2003 sometime shortly after you sent this e-mail
 25 with your updated resume, you actually went to

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1 Ross University's location in Edison, New Jersey,
 2 correct?

3 A. Yes.

4 Q. And you went without an
 5 appointment, is that correct?

6 A. That is correct.

7 Q. Walked in. What happened when you
 8 got there?

9 A. I just asked to see someone in human
 10 resources to inquire about my candecacy. That
 11 was -- the last thing I had received from the
 12 university was an e-mail notifying me that the
 13 trip to Dominica had been put on hold because of
 14 budgetary reconsiderations on the university's
 15 part, but that the trip would be rescheduled at a
 16 later date and that they would be in touch. So I
 17 believe prior to when that -- prior to me
 18 physically going up there in August of 2003. I at
 19 least sent maybe a couple of e-mails inquiring
 20 about the status of the, you know, the trip to
 21 Dominica, but for some reason they were giving me
 22 the cold shoulder and just, you know, weren't
 23 laying all their cards on the table.

24 Q. Did you raise your voice when you
 25 were in the reception area?

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1 A. No. I just -- I just asked to see whoever
 2 was in charge of human resources or whoever was
 3 available to see me and, you know, if I could get
 4 some clarification on my situation with Ross.

5 Q. Did the receptionist tell you that
 6 there was no one available to meet with you?

7 A. Well, she might have told me that, yes, but
 8 I knew that as a person who by the virtue of
 9 having received the last e-mail stating that I'm
 10 still going to be interviewed that I had some kind
 11 of interest in finding out when the interview was
 12 going to take place, when the trip was going to
 13 be, the flight, etc. So my purpose in being there
 14 was to speak with someone or find out what exactly
 15 was the status of my candecacy with the
 16 university. I assume they have people there who
 17 can, you know, fill you in on those type of
 18 things. But the lady, how can I say this, very
 19 delicately seemed to want to play little games
 20 and, you know, I just wanted to find out am I
 21 still a candidate, am I not a candidate. Have you
 22 terminated my candecacy. Why not. Just say,
 23 well, you're no longer a candidate. She -- so --
 24 so she wanted me to go and find a telephone and
 25 call someone within the office there to make an